

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the application of:

Stephen Benjamin COURTNEY

Serial No.: 10/523,246

Filing Date: January 27, 2005

For: SURFACE TREATING APPLIANCE

Examiner: Lee D. Wilson

Group Art Unit: 3727

Confirmation No.: 8800

**REQUEST FOR RECONSIDERATION OF PTO CALCULATION OF PATENT TERM
ADJUSTMENT UNDER 35 USC 154(b)(2)(A)**

MS Issue Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

07/27/2009 CKHLUK 00000001 031952 10523246
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Sir:

Applicant has calculated the patent term adjustment ("PTA") for this application and has found it to be 1098 days rather than 801 days, as stated on the Notice of Allowance. Referring to the PTO patent term adjustment history in PAIR, a copy of which is attached, the PTO correctly noted that it delayed this application 816 days under 35 USC 154(b)(1)(A) ("subsection A"). However, the PTO does not note that it delayed this application by an additional 282 days under 35 USC 154(b)(1)(B) ("subsection B"), to which Applicant is entitled. Further, the PTO's reduction of the PTA by 15 days is improper.


Under 35 USC 154(b)(2)(A), to the extent that periods of delay attributable to the grounds specified in subsections A and B overlap, the PTA "shall not exceed the actual number of days the issuance of the patent was delayed." In *Wyeth v. Dudas*, 88 USPQ.2d 1538 (D.D.C. 2008), the District Court held that periods of delay in subsections A and B overlap only if they

This request for reconsideration is being filed prior to payment of the issue and publication fees and is accompanied by the fee as set forth in §1.18(e).

In the event that the transmittal letter is separated from this document and the Patent and Trademark Office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing 424662010100.

Dated: June 26, 2009

Respectfully submitted,

By 

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